

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1899

Introduced by Assembly Member Brown

February 19, 2014

An act to amend ~~Section 1520~~ *Sections 1569.19, 1569.35, and 1569.50* of, and to add Section ~~1538.4~~ *1569.346* to, the Health and Safety Code, relating to residential care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1899, as amended, Brown. Residential care facilities for the elderly: ~~quality of care.~~ *elderly.*

Existing law, the California Residential Care Facilities for the Elderly Act, provides for the licensure and regulation of residential care facilities for the elderly by the State Department of Social Services. ~~A violation of these provisions is punishable as a misdemeanor.~~

Existing law sets forth the qualifications of a licensee *and requires a license to be forfeited by operation of law when the licensee abandons the facility. Existing law also authorizes the department to suspend or revoke a license upon specified grounds, including conduct inimical to the health, morals, welfare, or safety of an individual in or receiving services from a facility. Existing law authorizes a person whose license has been revoked to petition the department for reinstatement of the license after one year has elapsed since the revocation.*

This bill would make a person ~~who has had his or her previous~~ *whose* license is revoked ~~or forfeited~~ for abandonment of the facility ineligible for ~~licensure~~ *reinstatement of the license* for a period of 10 years following the revocation ~~or forfeiture.~~ ~~Because a violation of this~~

~~provision could be a crime, the bill would impose a state-mandated local program.~~

~~This~~

The bill would also require the Director of Social Services to establish and maintain a telephone hotline and an Internet Web site dedicated for the purpose of receiving complaints regarding ~~community care facilities~~ residential care facilities for the elderly. The bill would require the Internet Web site to include a listing, available to the public, of all final actions resulting in citation, suspension, or revocation taken against each licensee.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 1569.19 of the Health and Safety Code*
- 2 *is amended to read:*
- 3 1569.19. A license shall be forfeited by operation of law prior
- 4 to its expiration date when one of the following occurs:
- 5 (a) The licensee sells or otherwise transfers the facility or facility
- 6 property, except when change of ownership applies to transferring
- 7 of stock when the facility is owned by a corporation and when the
- 8 transfer of stock does not constitute a majority change in
- 9 ownership. The sale of a facility shall be subject to the requirements
- 10 of this chapter.
- 11 (b) The licensee surrenders the license to the department.
- 12 (c) The licensee moves a facility from one location to another.
- 13 The department shall develop regulations to ensure that the
- 14 facilities are not charged a full licensing fee and do not have to
- 15 complete the entire application process when applying for a license
- 16 for the new location.
- 17 (d) The licensee is convicted of an offense specified in Section
- 18 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section
- 19 273d, 288, or 289 of the Penal Code, or is convicted of another

1 crime specified in subdivision (c) of Section 667.5 of the Penal
2 Code.

3 (e) The licensee dies. When a licensee dies, the continued
4 operation shall be subject to the requirements of Section 1569.193.

5 (f) The licensee abandons the facility. *A license forfeited*
6 *pursuant to this subdivision shall not be eligible for reinstatement*
7 *on or after January 1, 2015, until 10 years have elapsed since the*
8 *forfeiture.*

9 SEC. 2. *Section 1569.346 is added to the Health and Safety*
10 *Code, to read:*

11 1569.346. (a) *The director shall establish and maintain a*
12 *telephone hotline and an Internet Web site dedicated for the*
13 *purpose of receiving complaints from members of the public*
14 *regarding residential care facilities for the elderly.*

15 (b) *The Internet Web site established under subdivision (a) shall*
16 *also include a listing, available to the public, of all final actions*
17 *resulting in citation, suspension, or revocation taken against each*
18 *licensee, listed both by the licensee's name and by the facility's*
19 *name. The actions shall be listed in a manner that protects the*
20 *privacy of the residents and the confidentiality of resident*
21 *information.*

22 SEC. 3. *Section 1569.35 of the Health and Safety Code is*
23 *amended to read:*

24 1569.35. (a) Any person may request an inspection of any
25 residential care facility for the elderly in accordance with this
26 chapter by transmitting to the department notice of an alleged
27 violation of applicable requirements prescribed by statutes or
28 regulations of this state, including, but not limited to, a denial of
29 access of any person authorized to enter the facility pursuant to
30 Section 9722 of the Welfare and Institutions Code. A complaint
31 may be made either orally or in writing, *including through the*
32 *telephone hotline and Internet Web site established under Section*
33 *1569.346.*

34 (b) The substance of the complaint shall be provided to the
35 licensee no earlier than at the time of the inspection. Unless the
36 complainant specifically requests otherwise, neither the substance
37 of the complaint provided the licensee nor any copy of the
38 complaint or any record published, released, or otherwise made
39 available to the licensee shall disclose the name of any person
40 mentioned in the complaint except the name of any duly authorized

1 officer, employee, or agent of the department conducting the
2 investigation or inspection pursuant to this chapter.

3 (c) Upon receipt of a complaint, other than a complaint alleging
4 denial of a statutory right of access to a residential care facility for
5 the elderly, the department shall make a preliminary review and,
6 unless the department determines that the complaint is willfully
7 intended to harass a licensee or is without any reasonable basis, it
8 shall make an onsite inspection within 10 days after receiving the
9 complaint except where the visit would adversely affect the
10 licensing investigation or the investigation of other agencies,
11 including, but not limited to, law enforcement agencies. In either
12 event, the complainant shall be promptly informed of the
13 department's proposed course of action.

14 (d) Upon receipt of a complaint alleging denial of a statutory
15 right of access to a residential facility for the elderly, the
16 department shall review the complaint. The complainant shall be
17 notified promptly of the department's proposed course of action.

18 *SEC. 4. Section 1569.50 of the Health and Safety Code is*
19 *amended to read:*

20 1569.50. (a) The department may deny an application for a
21 license or may suspend or revoke ~~any~~ a license issued under this
22 chapter upon any of the following grounds and in the manner
23 provided in this chapter:

24 ~~(a)~~

25 (1) Violation by the licensee of this chapter or of the rules and
26 regulations adopted under this chapter.

27 ~~(b)~~

28 (2) Aiding, abetting, or permitting the violation of this chapter
29 or of the rules and regulations adopted under this chapter.

30 ~~(c)~~

31 (3) Conduct ~~which~~ *that* is inimical to the health, morals, welfare,
32 or safety of either an individual in or receiving services from the
33 facility or the people of the State of California.

34 ~~(d)~~

35 (4) The conviction of a licensee, or other person mentioned in
36 Section 1569.17 at any time before or during licensure, of a crime
37 as defined in Section 1569.17.

38 ~~(e)~~

39 (5) Engaging in acts of financial malfeasance concerning the
40 operation of a facility, including, but not limited to, improper use

1 or embezzlement of client moneys and property or fraudulent
2 appropriation for personal gain of facility moneys and property,
3 or willful or negligent failure to provide services for the care of
4 clients.

5 The

6 (b) The director may temporarily suspend ~~any~~ a license, prior
7 to ~~any~~ a hearing when, in the opinion of the director, the action is
8 necessary to protect residents or clients of the facility from physical
9 or mental abuse, abandonment, or any other substantial threat to
10 health or safety. The director shall notify the licensee of the
11 temporary suspension and the effective date of the temporary
12 suspension and at the same time shall serve the provider with an
13 accusation. Upon receipt of a notice of defense to the accusation
14 by the licensee, the director shall, within 15 days, set the matter
15 for hearing, and the hearing shall be held as soon as possible but
16 not later than 30 days after receipt of the notice. The temporary
17 suspension shall remain in effect until the time the hearing is
18 completed and the director has made a final determination on the
19 merits. However, the temporary suspension shall be deemed
20 vacated if the director fails to make a final determination on the
21 merits within 30 days after the original hearing has been completed.

22 (c) A license that is revoked pursuant to this section due to the
23 licensee's abandonment of the facility shall not be eligible for
24 reinstatement on or after January 1, 2015, until 10 years have
25 elapsed since the revocation.

26 ~~SECTION 1. Section 1520 of the Health and Safety Code is~~
27 ~~amended to read:~~

28 ~~1520. Any person desiring issuance of a license for a~~
29 ~~community care facility or a special permit for specialized services~~
30 ~~under this chapter shall file with the department, pursuant to~~
31 ~~regulations, an application on forms furnished by the department,~~
32 ~~which shall include, but not be limited to:~~

33 ~~(a) Evidence satisfactory to the department of the ability of the~~
34 ~~applicant to comply with this chapter and of rules and regulations~~
35 ~~promulgated under this chapter by the department.~~

36 ~~(b) Evidence satisfactory to the department that the applicant~~
37 ~~is of reputable and responsible character. The evidence shall~~
38 ~~include, but not be limited to, a criminal record clearance pursuant~~
39 ~~to Section 1522, employment history, and character references. If~~
40 ~~the applicant is a firm, association, organization, partnership,~~

1 business trust, corporation, or company, like evidence shall be
2 submitted as to the members or shareholders thereof, and the person
3 in charge of the community care facility for which application for
4 issuance of license or special permit is made.

5 (e) Evidence satisfactory to the department that the applicant
6 has sufficient financial resources to maintain the standards of
7 service required by regulations adopted pursuant to this chapter.

8 (d) Disclosure of the applicant's prior or present service as an
9 administrator, general partner, corporate officer, or director of, or
10 as a person who has held or holds a beneficial ownership of 10
11 percent or more in, any community care facility or in any facility
12 licensed pursuant to Chapter 1 (commencing with Section 1200)
13 or Chapter 2 (commencing with Section 1250).

14 (e) Disclosure of any revocation or other disciplinary action
15 taken, or in the process of being taken, against a license held or
16 previously held by the entities specified in subdivision (d). A
17 person who has had his or her previous license revoked for
18 abandonment of the facility shall be ineligible for licensure for a
19 period of 10 years following the revocation.

20 (f) A signed statement that the person desiring issuance of a
21 license or special permit has read and understood the community
22 care facility licensure statute and regulations that pertain to the
23 applicant's category of licensure.

24 (g) Any other information that may be required by the
25 department for the proper administration and enforcement of this
26 chapter.

27 (h) In implementing this section, the department shall give due
28 consideration to the functions of each separate licensing category.

29 (i) Failure of the applicant to cooperate with the licensing
30 agency in the completion of the application shall result in the denial
31 of the application. Failure to cooperate means that the information
32 described in this section and in regulations of the department has
33 not been provided, or not provided in the form requested by the
34 licensing agency, or both.

35 SEC. 2. Section 1538.4 is added to the Health and Safety Code,
36 to read:

37 1538.4. (a) The director shall establish and maintain a
38 telephone hotline and an Internet Web site dedicated for the
39 purpose of receiving complaints from members of the public
40 regarding community care facilities.

1 ~~(b) The Internet Web site shall also include a listing, available~~
2 ~~to the public, of all final actions resulting in citation, suspension,~~
3 ~~or revocation taken against each licensee, aggregated both by the~~
4 ~~licensee's name and by the facility's name. The actions shall be~~
5 ~~listed in a manner that protects the privacy of the residents and the~~
6 ~~confidentiality of resident information.~~

7 ~~SEC. 3. No reimbursement is required by this act pursuant to~~
8 ~~Section 6 of Article XIII B of the California Constitution because~~
9 ~~the only costs that may be incurred by a local agency or school~~
10 ~~district will be incurred because this act creates a new crime or~~
11 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
12 ~~for a crime or infraction, within the meaning of Section 17556 of~~
13 ~~the Government Code, or changes the definition of a crime within~~
14 ~~the meaning of Section 6 of Article XIII B of the California~~
15 ~~Constitution.~~